

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITE HERE RETIREMENT FUND and
TRUSTEES OF THE UNITE HERE
RETIREMENT FUND
333 Westchester Avenue
White Plains, NY 10604

Plaintiffs

v.

CHESTNUT STREET HOTEL MANAGEMENT,
LLC
55 E. Long Lake Road, #204
Troy, MI 48085

and

TREMONT CHICAGO HOTEL, LLC
101 W. Ohio Street, Suite 720
Indianapolis, IN 46204

Defendants

CIVIL ACTION

NO. 20-396

COMPLAINT

Introduction

1. This is an action to collect contributions owed to the UNITE HERE Retirement Fund ("Pension Fund"). The action is brought pursuant to the Employee Retirement Income Security Act, 29 U.S.C. §§ 1001, et seq., as amended ("ERISA").

Jurisdiction and Venue

2. The Court has subject-matter jurisdiction of this action pursuant to 29 U.S.C. § 1132(a)(3) and (e)(1) because the Trustees of the Pension Fund, who are fiduciaries under ERISA, seek to enforce provisions of Title I of ERISA that require employers to make

contributions to a multiemployer pension plan according to the terms of the plan, 29 U.S.C. § 1145.

3. This Court has venue over this action pursuant to 29 U.S.C. § 1132(e)(2) because this is the district in which the plaintiff Pension Fund is administered.

Parties

4. Plaintiff Pension Fund is a trust fund established and maintained pursuant to 29 U.S.C. § 186(c)(5). Plaintiff Pension Fund is an employee benefit plan within the meaning of ERISA, 29 U.S.C. § 1002(2) and (3), and is maintained for the purpose of providing retirement benefits to eligible employees of participating employers. Plaintiff Pension Fund is also a multiemployer pension plan within the meaning of 29 U.S.C. § 1002(37).

5. Plaintiff Trustees of the Pension Fund ("Trustees") are fiduciaries within the meaning of ERISA, 29 U.S.C. § 1002(21)(A).

6. All plaintiffs maintain their principal place of business at 333 Westchester Avenue, White Plains, New York. Plaintiff Pension Fund is administered at that location, within the Southern District of New York.

7. Plaintiffs bring this action on behalf of themselves and on behalf of the Pension Fund's participants and beneficiaries pursuant to 29 U.S.C. §§ 1132(a)(3) and 1145.

8. Defendants, Chestnut Street Hotel Management LLC and Tremont Chicago Hotel, LLC ("Defendants"), are engaged in the hospitality business. Defendants are an employer in an industry affecting commerce within the meaning of ERISA, 29 U.S.C. § 1002(5), (11) and (12) and § 1003(a)(1).

9. At all times material hereto, Defendants' principal business location was 100 East Chestnut Street, Chicago, Illinois.

Statement of Facts

10. At all times relevant to this Complaint, Defendants have been party to a collective bargaining agreement ("CBA") with the Chicago Joint Executive Board of UNITE HERE, the bargaining agent for UNITE HERE Locals 1 and 450 (collectively, "Union"), covering various job classifications at the Chicago Tremont Hotel. The most recent CBA, effective from September 1, 2018 through August 31, 2023 is incorporated into this Complaint and attached as Exhibit A.

11. Under the CBA, Defendants promised to make contributions to the Pension Fund for each employee covered by the CBA at rates specified rates therein. Exhibit A at Section 49.

12. For the period July-October 2019, Defendants failed to pay contributions on all eligible hours as required by the terms on the collective bargaining agreement. For this period, Defendants owe contributions as follows:

July 2019 balance	\$ 7,132.05
August 2019	\$16,341.46
September 2019	\$14,820.19
October 1-17, 2019	\$ 7,530.64

13. By correspondence dated November 22, 2019, the Pension Fund notified Defendants that they had failed to pay contributions due to the Pension Fund. Despite that notice, Defendants failed to make the required contributions.

14. Through January 2, 2020, the delinquency has accrued interest in the amount of \$3,382,76 and liquidated damages in the amount of \$13,864.87.

15. Defendants have also defaulted on a Settlement and Mutual Releases Agreement that was fully executed by Defendants and the Pension Fund on March 27, 2019 ("Settlement Agreement" attached hereto as Exhibit B) and under which Defendants agreed to pay past due contributions, interest and liquidated damages for the period September through December 2018. Defendants owe \$28,238.59 under the terms of that agreement.

16. By letter dated September 20, 2019, the Pension Fund notified Defendants that they were in default of the Settlement Agreement.

Claim for Relief

17. Plaintiffs reassert all of the facts alleged in paragraphs 1 through 16.

18. Defendants' failure to remit contributions to the Pension Fund is a violation of the collective bargaining agreement that is actionable under ERISA.

19. The Trustees have a cause of action against employers under ERISA, 29 U.S.C. § 1132(a)(3), to collect delinquent contributions under section 515 of ERISA, 29 U.S.C. § 1145. In such an action the court "shall award" the plan the unpaid contributions, interest on the unpaid contributions, liquidated damages, reasonable attorney's fees and costs of the action, and such other legal or equitable relief as the court deems appropriate. 29 U.S.C. § 1132(g)(2).

Prayer for Relief


WHEREFORE, Plaintiffs Pension Fund and Trustees pray that this Court:

(a) Enter judgment in favor of the Plaintiff Pension Fund and against the Defendants in the full amount of the delinquent contributions Defendants owe to the Pension Fund for the period July through October 2019 in the amount of \$45,824.34;

- (b) Enter judgment in favor of the Plaintiff Pension Fund and against the Defendants for the amount of interest owed from the date the contributions were due through January 2, 2020 in the amount of \$3,382.76;
- (c) Enter judgment in favor of the Plaintiff Pension Fund and against the Defendants for the amount of liquidated damages owed in the amount of \$13,864.87;
- (d) Enter judgment in favor of the Plaintiff Pension Fund and against the Defendants in the amount of \$28,238.59 defaulted under the terms of the Settlement Agreement;
- (e) Enter an order requiring Defendants to pay on-going interest from January 2, 2020 through the date paid;
- (f) Enter judgment in favor of the Plaintiff Pension Fund and against the Defendants for attorneys' fees and costs; and
- (g) Award such other legal and equitable relief to which Plaintiffs are entitled.

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Dated: January 15, 2020